

APR 08 2010

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 09-90134

ORDER

KOZINSKI, Chief Judge:

Complainant alleges that a district judge improperly characterized his filings as a successive habeas petition and made other substantive and procedural errors. These charges relate directly to the merits of the judge's rulings and must therefore be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B). A misconduct complaint is not the proper vehicle for challenging a judge's rulings. See In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982).

Complainant further alleges that the judge must be mentally disabled or unable to read English, or he wouldn't have ruled as he did. Additionally, he claims the judge was biased against him and participated in a coverup of other judges' criminal acts. But adverse rulings do not constitute proof of incompetence, bias or conspiracy. Because there is no other evidence of misconduct, these charges must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D); In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093

(9th Cir. Jud. Council 2009).

Complainant's requests that the judge be removed from his case and for relief from the judge's rulings are not cognizable under this misconduct complaint procedure. See Judicial-Conduct Rule 3(h); In re Complaint of Judicial Misconduct, 567 F.3d 429, 431 (9th Cir. Jud. Council 2009).

This is complainant's third misconduct complaint charging that the subject judge mishandled his case. Further misconduct complaints presenting fundamentally the same allegations will be dismissed summarily as frivolous. Complainant is cautioned that "[a] complainant who has filed repetitive, harassing, or frivolous complaints, or has otherwise abused the complaint procedure, may be restricted from filing further complaints." Judicial-Conduct Rule 10(a); see also In re Complaint of Judicial Misconduct, 552 F.3d 1146, 1148 (9th Cir. Jud. Council 2009).

DISMISSED.